

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WAYNE AUSTIN AND KAYE AUSTIN,

Plaintiffs,

vs.

Case No. 2:09-cv-14147-VAR-MJH

EVANS & LUPTAK, P.L.C., MICHAEL J.
MEHR

Hon. Victoria A. Roberts

Defendants.

GEORGE A. GOOGASIAN (P14185)
THOMAS H. HOWLETT (P57346)
DEAN M. GOOGASIAN (P53995)
Attorneys for Plaintiffs
6895 Telegraph Road
Bloomfield Hills, MI 48301-3138
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VINCENT C. RABAUT, JR. (P24443)
MADELEINE SZYMANSKI (P55567)
Attorneys for Defendants Evans & Luptak,
P.L.C. and Michael J. Mehr
333 West Fort Street, Suite 1600
Detroit, MI 48226
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DEFENDANTS EVANS & LUPTAK, P.L.C. AND MICHAEL J. MEHR'S
PRELIMINARY FACT WITNESS LIST

Defendants Evans & Luptak, P.L.C. and Michael J. Mehr, by and through their attorneys, Rutledge, Manion, Rabaut, Terry & Thomas, P.C., and state that the following individuals may be called to testify at time of trial, either live or by way of prior written testimony:

1. Plaintiffs Wayne Austin and Kaye Austin
c/o Thomas H. Howlett, Esq.
6895 Telegraph Road
Bloomfield Hills, MI 48301-3138

Information includes, but is not limited to: their relationship with Kenneth Hodas; the decedent's state of mind; their knowledge concerning the decedent's intentions for his

estate; the decedent's medical condition; Kenneth Hodas' relationship with his daughter, Rachel; End of the Search, a/k/a EOTS; their knowledge of the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

2. Michael J. Mehr
c/o Vincent C. Rabaut, Jr., Esq.
333 West Fort Street, Suite 1600
Detroit, MI 48226

Information includes, but is not limited to: the Kenneth G. Hodas Estate Plan; Hodas Associates, LLC; his relationship with Kenneth Hodas; the decedent's state of mind, knowledge concerning the decedent's intentions for his estate; the decedent's medical condition; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; Kenneth Hodas, Kenneth Hodas' relationship with his daughter, Rachel; knowledge of the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

3. Current and/or former employees of Evens & Luptak, P.L.C., including but not limited to:
 - a. Ed Deron
 - b. Margaret Van Houten
 - c. Dan Serlin
 - d. David Trivax

c/o Vincent C. Rabaut, Jr., Esq.
333 West Fort Street, Suite 1600
Detroit, MI 48226

Information includes, but is not limited to: the Kenneth G. Hodas Estate Plan; Hodas Associates, LLC; their relationship with and/or interactions with Kenneth Hodas; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; their knowledge concerning the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

4. Rachel Hodas
55 Rue De Seine
75006 Paris, France

Information includes, but is not limited to: her relationship with her father, Kenneth Hodas, Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; her knowledge concerning the decedent's intentions and her grandparents' intentions for their estates; the decedent's medical condition; the decedent's state of mind, the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

5. Robert Shaw

71 Walnut Boulevard, Suite 109
Rochester, MI 48307

Information includes, but is not limited to: his relationship with Kenneth Hodas; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; Kenneth Hodas' relationship with his daughter, Rachel; his knowledge concerning the decedent's intentions for his estate; the decedent's medical condition; the decedent's state of mind; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

6. Jay A. Fishman
Jay Fishman, Ltd.
101 W. Big Beaver Rd.
Troy, MI 48084

Information includes, but is not limited to: Kenneth Hodas' assets, Kenneth Hodas' requests for transfers of assets to Plaintiffs and other recipients; his relationship with Kenneth Hodas; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; his knowledge concerning the decedent's intentions for his estate; the decedent's medical condition; the decedent's state of mind, the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

7. Current and/or former employees of Jay Fishman, Ltd., including but not limited to, Sarah Olson-Rosenbaum
101 W. Big Beaver Rd.
Troy, MI 48084

Information includes, but is not limited to: Kenneth Hodas' assets; Kenneth Hodas' requests for transfers of assets to Plaintiffs and other recipients; her relationship with Kenneth Hodas; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; her knowledge concerning the decedent's intentions for his estate; the decedent's medical condition; the decedent's state of mind; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

8. Ernest Hodas and Shirley Hodas
40701 Woodward Avenue, Suite 50
Bloomfield Hills, MI 48304

Information includes, but is not limited to: their relationship with Kenneth Hodas, Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; Kenneth Hodas, Kenneth Hodas' and their relationship with his daughter, Rachel; their knowledge concerning the decedent's intentions for his estate; the decedent's medical condition; the decedent's state of mind, Kenneth Hodas' assets; Hodas Associates, LLC, its Operating Agreement and certain amendments thereto; Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

9. Robert Hodas
1384 Queens Rd.
Berkeley, CA 94708

Information includes, but is not limited to: his relationship with Kenneth Hodas; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; Kenneth Hodas' relationship with his daughter, Rachel; his knowledge concerning the decedent's intentions and his parents' intentions for their estates; the decedent's medical condition; the decedent's state of mind; Kenneth Hodas' assets; Hodas Associates, LLC, its Operating Agreement and certain amendments thereto; Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

10. Bunny Hodas
5109 Hunt Stand Lane
Charlotte, NC 28226

Information includes, but is not limited to: her relationship with Kenneth Hodas; Kenneth Hodas' relationship with Wayne Austin and Kaye Austin; Kenneth Hodas' relationship with his daughter, Rachel, her knowledge concerning the decedent's intentions and her parents' intentions for their estates; the decedent's medical condition; the decedent's state of mind, Kenneth Hodas' assets; Hodas Associates, LLC, its Operating Agreement and certain amendments thereto; Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

11. Gary Ruttenberg, Esq.
Bloom & Ruttenberg
11111 Santa Monica Boulevard, Suite 1840
Los Angeles, California 90025

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

12. Current and/or former employees of Bloom & Ruttenberg, including but not limited to
Stefanie S. Cutler
Bloom & Ruttenberg
11111 Santa Monica Boulevard, Suite 1840
Los Angeles, California 90025

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

13. Dominic Campisi

Evans, Latham & Campisi, P.L.C.
1 Post Street, Suite 600
San Francisco, CA 94104

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

14. Current and/or former employees of Evans, Latham & Campisi, P.L.C., including but not limited to Thomas W. Latham

Evans, Latham & Campisi, P.L.C.
1 Post Street, Suite 600
San Francisco, CA 94104

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

15. Andrew Ayar

Strobl & Sharp, P.C.
300 E. Long Lake Rd., Suite 200
Bloomfield Hills, MI 40304

Information includes, but is not limited to: the Kenneth G. Hodas Estate Plan and the claims, allegations and damages at issue here.

16. Darrin Mercier

The Law Offices of Darrin W. Mercier
409 W. Center
Yreka, CA 96097

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

17. Current and/or former employees of the Law Offices of Darrin W. Mercier, including but not limited to Thomas J. Linville

The Law Offices of Darrin W. Mercier
409 W. Center
Yreka, CA 96097

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

18. Michael Thamer

The Law Offices of Michael Thamer
P.O. Box 1568
Callahan, CA 96014

Information includes, but is not limited to: knowledge of the underlying will contest, grounds of opposition to probate of the will, petition for conveyance of property claimed to belong to the decedent, Kenneth Hodas, settlement thereof, and the claims, allegations and damages at issue here.

19. Frank J. Henry, CPA

35639 Ellsworth
Sterling Heights, MI 48312

Information includes, but is not limited to: Kenneth Hodas' assets and valuations, Hodas Associates, LLC, the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

20. Timothy R. Dankoff, CPA

Plante Moran
27400 Northwestern Highway
Southfield, MI 48037

Information includes, but is not limited to: Kenneth Hodas' assets and valuations, Hodas Associates, LLC, the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

21. Current and/or former employees of Terry O'Neill & Associates, including Terry O'Neill and Craig Cabot

P.O. Box 1012
Yreka, CA 96097

Information includes, but is not limited to: valuations and/or appraisals of certain real property, the underlying will contest and settlement thereof, and the claims, allegations and damages at issue here.

22. Current and/or former employees of John Fournier Appraisals, including John Fournier
5025 N. Central Avenue, Suite 526
Phoenix, AZ 85012

Information includes, but is not limited to: valuations and/or appraisals of certain real property, the underlying will contest and settlement thereof, and the claims, allegations and damages at issue here.

23. Current and/or former employees of Stewart & Company, including William E. Stewart
1919 Courtney Dr., Suite 9
Ft. Myers, FL 33901

Information includes, but is not limited to: valuations and/or appraisals of certain real property, the underlying will contest and settlement thereof, and the claims, allegations and damages at issue here.

24. Current and/or former employees of Gillis Trott, LLC, including James Valiquett
31440 Northwestern Highway, Suite 330
Farmington Hills, MI 48334

Information includes, but is not limited to: valuations and/or appraisals of certain real property, the underlying will contest and settlement thereof, and the claims, allegations and damages at issue here.

25. Current and/or former employees of Paulk Appraisal Services, including Nitza Paulk
P.O. Box 560724
Charlotte, NC 28256

Information includes, but is not limited to: valuations and/or appraisals of certain real property, the underlying will contest and settlement thereof, and the claims, allegations and damages at issue here.

26. Current and/or former employees of LTM, Incorporated, including Larry T. McKnight
5355 Northland Dr., NE, Suite C-228
Grand Rapids, MI 49525

Information includes, but is not limited to: valuations and/or appraisals of certain real property, the underlying will contest and settlement thereof, and the claims, allegations and damages at issue here.

27. Dr. David Wilson
11219 N. State Highway 3
Fort Jones, CA 96032

Information includes, but is not limited to: the decedent's medical condition; the decedent's state of mind, Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

28. Dr. Elson M. Haas

35 Mitchell Blvd.
San Rafael, CA 94903

Information includes, but is not limited to: the decedent's medical condition; the decedent's state of mind, Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

29. Sally Chaney
5620 Schulmeyer Gulch Rd.
Yreka, CA 96097

Information includes, but is not limited to: the decedent's medical condition; the decedent's state of mind, Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

30. Donald Murphy and/or custodian of records of Scott Valley Drug Pharmacy
511 Main St.
Etna, CA 96027

Information includes, but is not limited to: the decedent's medical condition; the decedent's state of mind, Kenneth Hodas' transfers of assets to Plaintiffs and other recipients; the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

31. Current and/or former officers, directors, agents, representatives and/or members of End of the Search, a/k/a EOTS, including but not limited to:

- a. Wayne Austin
- b. Kaye Austin
- c. Dan Weale
- d. Joy Weale
- e. Tony [last name unknown at this time]
- f. Susan [last name unknown at this time]
- g. Augi [last name unknown at this time]
- h. Terry [last name unknown at this time]
- i. Marie [last name unknown at this time]
- j. Connie [last name unknown at this time]
- k. Dan [last name unknown at this time]
- l. Rod [last name unknown at this time]
- m. Annie [last name unknown at this time]

Information may include, but is not limited to: the organization End of the Search, a/k/a EOTS; the purpose of the organization; the organization's gatherings, meditations, charitable purpose and/or charitable works; the organizations finances; donations to the

organization; its membership; Wayne Austin and Kaye Austin's relationship with Kenneth Hodas; the decedent's state of mind; knowledge concerning the decedent's intentions for his estate; the decedent's medical condition; Kenneth Hodas' relationship with his daughter, Rachel; Kenneth Hodas' suicide; knowledge of the underlying will contest and settlement thereof; and the claims, allegations and damages at issue here.

32. Current and/or former employees of the Siskiyou County Sheriff's Department, 305 Butte St., Yreka, CA 96097, whose identities are not known at this time.

Information may include, but is not limited to: its investigation of the death of Kenneth Hodas; the organization End of the Search, a/k/a EOTS; the purpose of the organization; the organization's gatherings, meditations, charitable purpose and/or charitable works; the organizations membership; Wayne Austin and Kaye Austin's relationship with Kenneth Hodas; the decedent's state of mind, and the claims, allegations and damages at issue here.

33. Current and/or former employees of City of Etna Police Department, 448 Main St., Etna, CA 96027, whose identities are not known at this time.

Information may include, but is not limited to: its investigation of the death of Kenneth Hodas; the organization End of the Search, a/k/a EOTS; the purpose of the organization; the organization's gatherings, meditations, charitable purpose and/or charitable works; the organizations membership; Wayne Austin and Kaye Austin's relationship with Kenneth Hodas; the decedent's state of mind, and the claims, allegations and damages at issue here.

34. Current and/or former employees of Etna Sheriff's Department, 591 Collier Way, Etna, CA 96027, whose identities are not known at this time.

Information may include, but is not limited to: its investigation of the death of Kenneth Hodas; the organization End of the Search, a/k/a EOTS; the purpose of the organization; the organization's gatherings, meditations, charitable purpose and/or charitable works; the organizations membership; Wayne Austin and Kaye Austin's relationship with Kenneth Hodas; the decedent's state of mind, and the claims, allegations and damages at issue here.

35. Current and/or former employees of the Siskiyou County Coroner's Office, 305 Butte St., Yreka, CA 96097, including but not limited to:

- a. Adam C. Oreck, Deputy Coroner

Information may include, but is not limited to: its investigation of the death of Kenneth Hodas; autopsy and autopsy findings; Wayne Austin and Kaye Austin's relationship with Kenneth Hodas; the decedent's state of mind, and the claims, allegations and damages at issue here.

36. Records custodians of the following to authenticate documents and/or records obtained and/or produced during discovery:

- a. Evans & Luptak, P.L.C.
- b. Jay Fishman, Ltd.
- c. Hodas Associates, LLC
- d. Bloom & Ruttenberg
- e. Evans, Latham & Campisi, P.L.C.
- f. Strobl & Sharp, P.C.
- g. The Law Offices of Darrin W. Mercier
- h. The Law Offices of Michael Thamer
- i. Frank J. Henry, CPA
- j. Plante Moran
- k. Terry O'Neill & Associates
- l. John Fournier Appraisals
- m. Stewart & Company
- n. Gillis Trott, LLC
- o. Paulk Appraisal Services
- p. LTM Incorporated
- q. Dr. David Wilson
- r. Dr. Elson M. Haas
- s. Sally Chaney
- t. Scott Valley Drug Pharmacy
- u. End of the Search, a/k/a EOTS
- v. Internal Revenue Service
- w. Siskiyou County Sheriff's Department
- x. Siskiyou County Coroner's Office
- y. City of Etna Police Department
- z. Etna's Sheriff's Department
- aa. Edward Jones
- bb. Wachovia Securities

37. Defendants name and reserve the right to call any and all medical or physical examiners, diagnosticians, treaters, surgeons, physicians, nurses, therapists, technicians, counselors, attendants, and the like with any knowledge of or involvement in the medical, physical and/or psychological care or treatment of Kenneth Hodas.

38. All persons deposed and/or to be deposed.

39. Any and all lay witnesses named, listed and/or identified by any of the parties to this case, whether called at time of trial or not.

40. Defendants reserve the right to name and call rebuttal witnesses and surrebuttal witnesses at the time of trial.

41. Defendants reserve the right to name and call additional witnesses as they become known through further discovery.
42. Defendants reserve the right to amend this Witness List.

RUTLEDGE, MANION, RABAUT,
TERRY & THOMAS, P.C.

s/Madeleine R. Szymanski
VINCENT C. RABAUT, JR. (P24443)
MADELEINE R. SZYMANSKI (P55567)
Attorneys for Defendants Evans & Luptak, PLC
and Michael J. Mehr
333 West Fort Street, Suite 1600
Detroit, Michigan 48226
(313) 965-6100
mszymanski@rmrtt.com

DATED: April 15, 2010

CERTIFICATE OF SERVICE

I, LINDA S. HALLER hereby certify and say that I am employed by the law firm of RUTLEDGE, MANION, RABAUT, TERRY & THOMAS, P.C., and that on the 15th day of April, 2010, I electronically filed the foregoing paper with the Clerk of the Court and served via electronic filing upon:

GEORGE A. GOOGASIAN (P14185)
THOMAS H. HOWLETT (P57346)
DEAN M. GOOGASIAN (P53995)
Attorneys for Plaintiffs
6895 Telegraph Road
Bloomfield Hills, MI 48301-3138
thowlett@googasian.com
dgoogasian@googasian.com

I declare that the statements above are true to the best of my information, knowledge and belief.

s/Linda S. Haller
lhaller@rmrtt.com